

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT
MACHAKOS
CAUSE NO. E049 OF 2024

COSMAS MAKARI WANYONYI & 53
OTHERS.....CLAIMANT

VERSUS

CYKA MANPOWER SERVICES LIMITED.....1ST
RESPONDENT

EAST AFRICA PORTLAND CEMENT.....2ND RESPONDENT

RULING NO. 1

1. Before this Court for determination is the 1st Respondent's Notice of Preliminary Objection dated 22nd May 2025, premised on the following grounds:

- 1) *THAT this Honourable Court lacks the Pecuniary Jurisdiction to entertain this matter by dint of Gazette Notice No. 6024 of 2018 that expressly provides for the Gross Monthly Income that vests jurisdiction on this Honourable Court.*
- 2) *THAT entire claim is fatally defective and a gross abuse of the court process and should be struck with costs.*

2. The Claimants filed a response to the Preliminary Objection in which they contend, *inter alia*, that:

- i. *Section 12 of the Employment and Labour Relations Court Act (No. 20 of 2011) vests this Honourable Court with authority to determine all employment-related claims.*
- ii. *Gazette Notice No. 6024 of 2018, published by the Chief Justice pursuant to Section 29 of the Employment and Labour Relations Court Act, merely designates magistrates of the rank of Senior Resident Magistrate and above to hear and determine employment disputes where the employee earns a gross monthly salary of Kshs. 80,000 or less.*
- iii. *Gazette Notice No. 6024 does not vest jurisdiction in the Magistrate's Court, nor does it oust the jurisdiction of the Employment and Labour Relations Court. It serves only to decentralize access to justice by permitting lower courts to hear minor employment claims without limiting the ELRC's original jurisdiction.*
- iv. *The present suit involves 54 Claimants, all of whom were employees of the 1st Respondent, whose claims arise from similar facts and a common cause of action.*
- v. *It is in the interests of judicial economy, justice, and consistency, this Honourable Court is best suited to hear and determine the dispute.*

Submissions

3. The Preliminary Objection was canvassed through written submissions which the Court has duly considered.

Analysis and Determination

4. It is clear to the Court that the singular issue for determination is whether this Court has jurisdiction to hear and determine the suit herein by virtue of Gazette Notice No. 6024 of 2018.
5. Pursuant to Gazette Notice No. 6024 dated 22nd June 2018, Magistrates of the rank of Senior Resident Magistrate and above were appointed by the Honourable Chief Justice as Special Magistrates, with jurisdiction to hear and determine employment and labour relations disputes within their respective areas of jurisdiction where, *inter alia*, an employee's gross monthly pay does not exceed Kshs 80,000/=.
6. Notwithstanding the pecuniary limits set out under Gazette Notice No. 6024 of 2018, the Employment and Labour Relations Court retains exclusive original jurisdiction to hear and determine all disputes relating to employment and

labour relations pursuant to Article 162(2)(a) of the Constitution. Consequently, it cannot be said that this Court is bereft of jurisdiction to hear and determine the suit herein.

7. What's more, the Claimants' cumulative claim stands at **Kshs 23,795,121/=**. Accordingly, having regard to Section 7(1) of the Magistrates' Courts Act, the claim, taken in its entirety, is beyond the pecuniary jurisdiction of a magistrate's court.

8. It follows, therefore, that the Magistrates' Court lacks jurisdiction to entertain the claim herein.

9. In sum, the Notice of Preliminary Objection dated 22nd May 2025 is overruled with an order that costs shall be in the cause.

DATED, SIGNED and DELIVERED at NAIROBI this 23rd day of January 2026.

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**STELLA RUTTO
JUDGE**

In the presence of:

For the Claimant	Mr. Ng'eno
For the 1 st Respondent	Mr. Karwanda
For the 2 nd Respondent	Mr. Simon Peter
Court Assistant	Catherine

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO

JUDGE

ORIGINAL